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REMARKS

Regarding the status of the application, Claims 1, 9 and 17 have been amended and Claims 1-19 are pending in this application. Reconsideration of this application is respectfully requested.

Claims 1-4, 7-12, and 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication No. 2003-244709 of Watanabe. The Examiner took Official Notice "that it is well known in the art to store CPU instructions as firmware."

Claims 1, 9 and 17 have been amended to more clearly distinguish over the Watanabe reference. Claim 1, which is representative of independent Claims 1, 9 and 17, calls for a digital camera comprising:

> a user interface;
> processing circuitry coupled to the user interface;
> a plurality of predetermined profiles stored in the camera; and
> firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user, and without communicating with an external computer.

The Watanabe reference discloses in its Abstract, for example, that

> "When a shutter button is depressed and a GPS sensor can acquire a current position, the digital camera implements imaging processing and acquires the current position by external communication and acquires a current date and time (steps 100 to 108). Then the digital camera accesses a weather information server connected to a network to transmit the acquired current position and current date and time to the server, receives weather information corresponding to them from the weather information server and applies white balance correction to the photographed image on the basis of the received weather information (steps 110 to 116). When the digital camera cannot acquire the current position, the digital camera activates a strobe to implement imaging processing (steps 118, 120)."

The Examiner cited paragraphs [0038] to [0040] as essentially disclosing the firmware recited in Claim 1. It is respectfully submitted that this is in error. Paragraphs [0038] to [0040] of the Watanabe reference discloses (from the computer translation):

> "[0038] With the gestalt of this operation, CPU 38 transmits the current time information about the current time (photography time) acquired from the timer 60, and the currency information about the current position (camera station) acquired from the GPS sensor 62 to the server computer 90 through the communications department 64.
> [0039] The past and the newest weather information of every place (for example, fine weather, fine, cloudiness, rain, etc.) are accumulated in the server computer 90, and the weather information corresponding to the current time information and currency information which were transmitted from the personal digital assistant 92 is transmitted to a personal digital assistant 92.
> [0040] Based on the weather information transmitted from the server computer 90, CPU 38 calculates the gain values R_g, G_g, and B_g, and outputs them to the white balance equalization circuit 30. Thereby, the white balance control suitable for the weather at the time of

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photography should do – a diaphragm is immobilization -- etc. – also when exposure conditions have constraint, degradation of image quality can be suppressed."

Thus, the Watanabe reference teaches that the camera communicates with a server computer 90 through a communications department 64 to obtain weather information. The weather information corresponding to the time and position information transmitted from the camera is transmitted from the server computer back to the digital camera. The Wantanabe camera thus communicates with an external computer to obtain data that is processed to apply the white balance correction. This communication is not required or performed by the present digital camera and this is not addressed in amended Claims 1, 9 and 17.

The present digital camera does not communicate with, or transmit data to, an external server computer in order to obtain data that is processed by the CPU to automatically select one of the profiles stored in the camera. This is recited in amended Claims 1, 9 and 17.

With regard to Claim 1, it calls for "firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user, and without communicating with an external computer."

It is respectfully submitted that the Watanabe reference discloses that the white balance correction is performed based upon data derived from the external server computer 90. Thus, it is respectfully submitted that the Watanabe reference requires external communication by the camera in order to perform the white balance correction. This is not what is performed in the present digital camera and is not what is recited in independent Claims 1, 9 and 17.

In view of the above, and with regard to independent Claim 1, it is respectfully submittted that the Watanabe reference does not disclose or suggest "firmware that runs on the processing circuitry that processes geographic location and time data entered into the camera to automatically select one of the profiles based upon the geographic location and time data without presenting a question to a user, and without communicating with an external computer."

With regard to independent Claim 9, it is respectfully submittted that the Watanabe reference does not disclose or suggest a method employed in a digital camera that involves "configuring the firmware to automatically select one of the profiles based upon the geographic location and time data that were entered without presenting a question to a user, and without communicating with an external computer.'

With regard to independent Claim 17, it is respectfully submittted that the Watanabe reference does not disclose or suggest a method employed in a digital camera that involves "automatically selecting, by way of the firmware, one of the profiles based upon the geographic location and time data that were entered without presenting a question to a user, and without communicating with an external computer."

Claims 1, 9 and 17 essentially recite that profiles are automatically selected by the firmware without communicating with an external computer. This is not disclosed or suggested by the Watanabe reference and is certainly not derivable therefrom without distorting the express teachings of the Watanabe reference and using hindsight reconstruction.

Therefore, it is respectfully submitted that Claims 1, 9 and 17 are not disclosed or suggested by the Wantanabe reference. Withdrawal of the Examiner's rejection and allowance of Claims 1, 9 and 17 are respectfully requested.

Dependent Claims 2-4, 7, 8, 10-12, 15, 16 and 16 are considered patentable at least based upon the allowability of Claims 1, 9 and 17. Withdrawal of the Examiner's rejection and allowance of Claims 2-4, 7, 8, 10-12, 15, 16 and 16 are respectfully requested.

Claims 6, 14, and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Application Publication No. 2003-244709 of Watanabe in view of U.S. Patent No. 5,086,314 issued to Aoki. The Examiner admitted that "Watanabe is silent with regard to allowing a user to manually enter geographic location and time data." The Examiner cited the Aoki patent as disclosing manual entry of data into the camera. The Examiner concluded that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Watanabe's camera allow a user to enter a geographic location and time, as described by Aoki."

It is respectfully submitted that the combined teachings of the Wantanabe and Aoki references do not disclose or suggest the inventions recited in Claims 1, 9 and 17, for the reasons argued above with regards to independent Claims 1, 9 and 17. Dependent Claims 6, 14, and 19 are considered patentable at least based upon the allowability of Claims 1, 9 and 17. Withdrawal of the Examiner's rejection and allowance of Claims 6, 14, and 19 are respectfully requested.

In the Advisory Action, the Examienr stated that "The Watanabe reference was as accessible to Applicant as it was to the examiner. It is Applicant's responsibility not to merely amend the claims to overcome the prior art of record but to write original claims that overcome all prior art. Applicant's failure to do so will not result in the Office entertaining claim amendments ad infinitum during a single examination. Additionally, the examiner cannot anticipate and provide art for every possible amendment that Applicant may choose to make in the future."

It is respectfully submitted that it is not Applicants' responsibility to "write original claims that overcome all prior art" as is asserted by the Examiern. Applicants have a responsibility to disclose known prior art to the Office, but have no responsibility to search for prior art relevant to the invention. Applicants' responsibility is to respond to prior art uncovered by the Examiner.

The references heretofore made of record and not relied upon is considered pertinent to applicants' disclosure to the extent indicated by the Examiner.

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       In view of the above, it is respectfully submitted that all pending Claims are not obvious in view of the cited references, taken in conjunction with Official Notice, or taken singly or together, and are therefore patentable. Accordingly, it is respectfully submitted that the present application is in condition for allowance. Reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

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